

FILED

MAR - 9 2005

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BY

DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

Charles Robert Gorton, T-43446

(Name of Plaintiff)

CSP-LAC, B5-208

(Address of Plaintiff)

P.O. Box - 8457

Lancaster, CA 93539-8457

vs.

Correctional Officer Bick

Lieutenant Espinosa

Captain Fox

Chief Deputy Warden

On-Duty Sergeant

Acting Warden of S.C.C. III

(Names of Defendants)

05-CV-465 DEL AAN
(Case Number)

COMPLAINT

I. Previous Lawsuits:

A. Have you brought any other lawsuits while a prisoner: ☐ Yes ☒ No

B. If your answer to A is yes, how many?: N/A Describe the lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper using the same outline.)

1. Parties to this previous lawsuit: N/A

Plaintiff _____

Defendants _____

FORM TO BE USED BY A PRISONER IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

Rev'd 5/99

2. Court (if Federal Court, give name of District; if State Court, give name of County)

N/A

3. Docket Number N/A

4. Name of judge to whom case was assigned N/A

5. Disposition (For example: Was the case dismissed? Was it appealed? Is it still pending?)

N/A

6. Approximate date of filing lawsuit N/A

7. Approximate date of disposition N/A

II. Exhaustion of Administrative Remedies

A. Is there a grievance procedure available at your institution? ☒ Yes ☐ No

B. Have you filed a grievance concerning the facts relating to this complaint?

☒ Yes ☐ No

If your answer is no, explain why not N/A

C. Is the grievance process completed? ☒ Yes ☐ No

Institution has failed to respond

III. Defendants

(In Item A below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use item B for the names, positions and places of employment of any additional defendants.)

A. Defendant Mr. Bick is employed as Correctional Off.
at CSP - Sierra Conservation Center

B. Additional defendants On-Duty Sergeant, 2nd Watch, CSP-SCC III
Lieutenant Espinosa, CSP-SCC III; Captain Fox, CSP-SCC III
Chief Deputy Warden, CSP-SCC III; Acting Warden, CSP-SCC III

IV. Statement of Claim

(State here as briefly as possible the facts of your case. Describe how each defendant is involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. Attach extra sheets if necessary.)

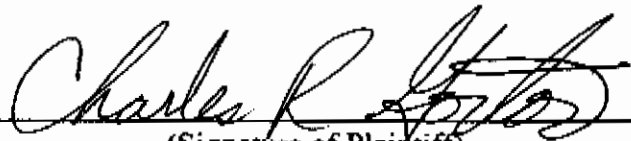
On Thursday, 05/13/04, I was placed under Protective Custody by the 2nd Watch
On-Duty Correctional Officer (C/O Bick) at CSP-SOC III, Housing Unit - Gym/6T,
at 1815 hours. C/O Bick, escorted me into the Custody Office for confinement.
C/O Bick then walked out of the office, leaving the office door open. It was
during that time that Inmate Pina, T-44230, rushed into the office and attacked
me. I hold C/O Bick responsible for this attack and the injuries I sustained
I consider the actions of C/O Bick, reckless, with malicious intent and with
deliberate indifference under Color of State Law. I also believe his actions
were motivated by a desire to encourage "prison justice", because of my committed
offense.

V. Relief.

(State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.)

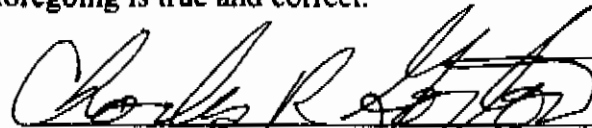
I am requesting monetary damages for personal injury, and physical/emotional
pain and suffering, in the amount of \$300,000 dollars, plus punitive damages.
I also request criminal charges to be filed against Officer Bick for reckless
endangerment, with intent to cause bodily harm.

Signed this 23 day of February, 2005.


(Signature of Plaintiff)

I declare under penalty of perjury that the foregoing is true and correct.

23 Feb 2005
(Date)


(Signature of Plaintiff)

6 January, 2005

Victim Compensation and Gov. Claims Board
Government Claims Division
P.O. Box 3035
Sacramento, CA 95812-3035

Subj: Late Claim Explanation
Re: Claim # G550742

Dear Sir/Ma'am:

The reason for this claim being late is due to the stipulated requirement to exhaust all possible remedies through the CDC-602 appeals process. To this date I still have not received any response from the Second-Level of appeal. Therefore, in an effort to satisfy the six month requirement for filing, I submitted said referenced claim. Also note that according to Title-15 regulations CCR §3084.6.(b)(3), the second level response shall be completed within 20 working days, or 30 working days if first level is waived pursuant to section §3084.5.(a)(3).

As per your date stamp, Nov. 8, 2004, this claim was received within the six month requirement. Notwithstanding, the claim form provided to me by the Lancaster State Prison legal library, was not the current claim form and instructions. Therefore, I was not aware of the new \$25.00 fee. Hence, your notification of late claim.

Also, due to the time needed to process the attached Certified Inmate Trust Account and now having received it, I am able to fully satisfy all requested documentation to submit this claim.

Should you require any further documentation, please let me know.

Respectfully submitted,

A handwritten signature in cursive script, reading "Charles R. Gorton".

Charles R. Gorton, T43446
L.S.P., B5-229
44750 - 60th Street West
Lancaster, CA 93536

**AFFIDAVIT FOR WAIVER OF GOVERNMENT CLAIMS
FILING FEE AND FINANCIAL INFORMATION FORM**

(Request for Permission to Proceed In Forma Pauperis)

California Victim Compensation and Government Claims Board
P.O. Box 3035
Sacramento, CA 95812-3035

1-800-955-0045 • www.governmentclaims.ca.gov

State of California

For Office Use Only

Claim No.:

I request a fee waiver so that I do not have to pay the \$25 fee to file a government claim with the Victim Compensation and Government Claims Board. I cannot pay any part of the fee.

Claimant Information

1	Gorton	Charles	R.	2	Tel:	X	X	X	X	X	X	N	O	N	E
	Last name	First Name	MI												
3	Claim Number (if known):		G550742												

Employment Information

4	My occupation: California State Inmate														
	My employer: N/A														
	Employer's Mailing Address														
	City														
	State														
	Zip														
	My spouse's or partner's employer: None														
	N/A														
	Employer's Mailing Address														
	City														
	State														
	Zip														
5	If you are an inmate in a correctional facility, please attach a certified copy of your trust account balance, enter your inmate identification number below and skip to step 23 .														
	Inmate Identification Number: T-43446														

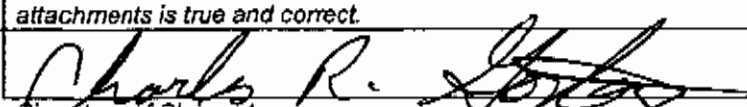
Financial Information

6	I am receiving financial assistance from one or more of the following programs. <input type="checkbox"/> Yes <input type="checkbox"/> No																																																								
	If no, proceed to step 7 . If yes, check all that apply, then skip to step 24 .																																																								
	<input type="checkbox"/> SSI and SSP: Supplemental Security Income and State Supplemental Payments Programs																																																								
	<input type="checkbox"/> CalWORKS: California Work Opportunity and Responsibility to Kids Act																																																								
	<input type="checkbox"/> Food Stamps																																																								
	<input type="checkbox"/> County Relief, General Relief (GR), or General Assistance (GA)																																																								
7	Number in my household and my gross monthly household income, if it is the following amount or less:																																																								
	<table border="0"><tr><td></td><td>Number</td><td>Monthly family income</td><td></td><td>Number</td><td>Monthly family income</td></tr><tr><td>A</td><td><input type="checkbox"/> 1</td><td>\$969.79</td><td>F</td><td><input type="checkbox"/> 6</td><td>\$2,626.04</td></tr><tr><td>B</td><td><input type="checkbox"/> 2</td><td>\$1,301.04</td><td>G</td><td><input type="checkbox"/> 7</td><td>\$2,957.29</td></tr><tr><td>C</td><td><input type="checkbox"/> 3</td><td>\$1,632.29</td><td>H</td><td><input type="checkbox"/> 8</td><td>\$3,288.54</td></tr><tr><td>D</td><td><input type="checkbox"/> 4</td><td>\$1,963.54</td><td>I</td><td><input type="checkbox"/></td><td>There are more than 8 people in my family</td></tr><tr><td>E</td><td><input type="checkbox"/> 5</td><td>\$2,294.79</td><td></td><td></td><td>Add \$331.25 for each additional person.</td></tr><tr><td></td><td></td><td></td><td></td><td></td><td>Number: <input type="text"/> Total Income: <input type="text"/></td></tr></table>																Number	Monthly family income		Number	Monthly family income	A	<input type="checkbox"/> 1	\$969.79	F	<input type="checkbox"/> 6	\$2,626.04	B	<input type="checkbox"/> 2	\$1,301.04	G	<input type="checkbox"/> 7	\$2,957.29	C	<input type="checkbox"/> 3	\$1,632.29	H	<input type="checkbox"/> 8	\$3,288.54	D	<input type="checkbox"/> 4	\$1,963.54	I	<input type="checkbox"/>	There are more than 8 people in my family	E	<input type="checkbox"/> 5	\$2,294.79			Add \$331.25 for each additional person.						Number: <input type="text"/> Total Income: <input type="text"/>
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C	<input type="checkbox"/> 3	\$1,632.29	H	<input type="checkbox"/> 8	\$3,288.54																																																				
D	<input type="checkbox"/> 4	\$1,963.54	I	<input type="checkbox"/>	There are more than 8 people in my family																																																				
E	<input type="checkbox"/> 5	\$2,294.79			Add \$331.25 for each additional person.																																																				
					Number: <input type="text"/> Total Income: <input type="text"/>																																																				
	If you checked a box in step 7 A through I, complete steps 9 through 15 . Then skip to step 24 .																																																								
8	My income is not enough to pay for the common necessities of life for me and the people in my family, and also pay the filing fee. <input type="checkbox"/> Yes <input type="checkbox"/> No																																																								
	If yes, fill in steps 9 through 24 .																																																								

Monthly Income and Expenses

9	My gross monthly pay is: \$	10	My income changes each month: <input type="checkbox"/> Yes <input type="checkbox"/> No				
11	Number of persons living in my home:		12	Other money I get each month			
	Name	Age	Relationship	Monthly Income	Source:		
	A			\$	A		
	B			\$	B		
	C			\$	C		
	D			\$	D		
	E			\$	E		
	F			\$	F		
15	My total gross monthly household income:			\$	13	Total other money:	\$
16	My payroll deductions are:				14	My monthly income:	\$
	A		\$	E		\$	
	B		\$	F		\$	
	C		\$	G		\$	
	D		\$	H		\$	
				17	My total payroll deduction amount is:		\$
18	My monthly take home pay is		\$	19	My net monthly income:		\$
20	I own or have interest in the following property:						
	A	Cash	\$	C	Cars, other vehicles, and boats (List make and year)		
	B	Checking and savings (List banks):			Property	Value	Loan Balance
		1)	\$		1)	\$	\$
		2)	\$		2)	\$	\$
		3)	\$		3)	\$	\$
		4)	\$	D	Real estate (List addresses)		
					1)	\$	\$
					2)	\$	\$
21	My monthly expenses are:						
	A	Rent or house payment	\$	J	Installment payments (specify)		
	B	Food and household supplies	\$		1)	\$	
	C	Utilities and telephone	\$		2)	\$	
	D	Clothing	\$		3)	\$	
	E	Laundry and cleaning	\$		Total installment payments:		
	F	Medical and dental	\$	K	Wage assignment or withholdings		
	G	Insurance	\$	L	Spousal or child support		
	H	School, child care	\$	M	Other:		
	I	Transportation and auto expenses	\$		1)	\$	
					2)	\$	
					Total other expenses:		
					Total monthly expenses:		
22							
23	I have attached other information that supports this application on a separate sheet. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No						

Signature Section

24	I declare under penalty of perjury under the laws of the state of California that the information on this form and all the attachments is true and correct.	
		6 January 2005 Date



STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, Governor

VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD

GOVERNMENT CLAIMS DIVISION
P O BOX 3035
Sacramento, California 95812-3035
Toll Free Number: 1-800-955-0045
Fax Number: (916) 323-5766
Internet: www.boc.ca/whetel.gov

KAREN MCGAGIN
Executive Officer

FRED AGUIAR
Secretary
State and Consumer Services Agency
Chairperson

STEVE WESTLY
State Controller
State Controller's Office
Board Member

MICHAEL A. RAMOS
San Bernardino County District Attorney
Board Member

Charles R Gorton T43446
44750 60th St W
Lancaster, CA 93536.

November 19, 2004

RE: Claim G550742 for Charles R Gorton, T43446
Tort claim for Incomplete, Late App. Needed

Dear Charles Gorton,

The Victim Compensation and Government Claims Board (Board) received your claim on November 03, 2004.

On August 17, 2004, the law was changed to require a \$25 filing fee for government claims. The new law affects all claims received on or after August 17, 2004. We cannot take action on your claim, until we receive the \$25 filing fee. The \$25 fee will be returned to you if your claim is paid.

Please send us a check or money order in the amount of \$25 made payable to the State of California. Write your claim number on the check or envelope and send it in the enclosed envelope. If you are unable to pay the filing fee, you can ask for a "Filing Fee Waiver Request". You must complete the request and return it in order for us to consider granting you a filing fee waiver. Call us toll-free at 1-800-955-0045 or visit our web page to get a copy of the form.

In addition to the filing fee, we also need additional information in order to continue working on your claim. Please provide the following information:

Any claim relating to wrongful death, personal injury, personal property damage, or growing crops must be presented within six months of the date of action, which resulted in the claim.

Since your claim was presented to the Board more than six months from the date of incident, it will be returned for not being presented within six months after the event or occurrence as required by law. See Sections 901 and 911.2 of the Government Code. If the claim is not presented within the time allowed by law, no action will be taken.

Your only recourse at this time is to apply without delay to the Victim Compensation and Government Claims Board for leave to present a late claim. See Sections 911.4 to 912.2, inclusive, and Section 946.6 of the Government Code. Under some circumstances, leave to present a late claim will be granted. See Section 911.6 of the Government Code.

IMPORTANT NOTICE:

In order for tort claims to be considered complete, the above referenced questions must be answered in writing within six months of the original date of incident (see Government Code Section 901 and 911.2). If you respond later than six months, but prior to one year from the original date of incident, you must apply without delay for leave to present a late claim (Government Code Sections 911.2 through 911.4, inclusive, 946.6). The Board has no jurisdiction over tort claims presented more than one year from the original date of incident.

If you have any questions, please feel free to contact us at (800) 955-0045 or write to the above address. Please indicate your claim number when calling or writing.

Government Claims Branch
Victim Compensation and Government Claims Board

Ltr 209 Incomplete Notice

NOV 08 2004

G

550742

MAILROOM

Section 1: Claimant Information

Name of Claimant CHARLES R. GORTON, T43446 Telephone Number (include area code) () NONE

LSP, B5-229, 44750-60th Street West, Lancaster CA () NONE

Mailing Address City 93536 State Zip Code

Section 2: Claim Information

Is the claim filed on behalf of a minor? ☒ Yes ☐ No. If yes, please indicate Relationship to the minor _____ Date of birth of the minor _____

Name of State Agency against which this claim is filed: <u>Cal. Dept. of Corrections</u>	Incident Date Month <u>5</u> Day <u>13</u> Yr <u>04</u>	Dollar Amount of Claim <u>\$300,000.00</u>
If the amount exceeds \$10,000, indicate type of trial case: <u>1987 Federal Case</u> <input checked="" type="checkbox"/> Limited Civil Case <input type="checkbox"/> Non-Limited Civil Case	Explain how the dollar amount claimed was computed: (Attach three copies of the supporting documentation for the amount claimed with this form.) <u>\$50,000.00 per person responsible at the time of the incident.</u>	
Describe the specific damage or injury incurred as a result of the incident: <u>1" laceration above right eye brow, broken nose, black eye, emotional distress and pain and suffering, Blatant violation of my Federal Civil Rights. See Exhibits A, B, C.</u>	Location of the incident (If applicable, include street address, city or county, highway number, post mile number and direction of travel): <u>Sierra Conservation Center (SCC-II) 5150 O'Bryers Ferry Road Jamestown, CA 95327</u>	
	Preferred Hearing Location (if an appearance is necessary): <input checked="" type="checkbox"/> Sacramento <input checked="" type="checkbox"/> Los Angeles <input type="checkbox"/> Oakland <input type="checkbox"/> San Diego	

Explain the circumstances that led to the alleged damage or injury. State all facts that support your claim against the State of California, and why you believe the State is responsible for the alleged damage, or injury, if known, provide the name(s) of the State employee(s) who allegedly caused the injury, damage or loss. (If more space is needed, please attach additional sheets.)

On Thursday, 05/13/04, I was transferred from San Quentin State Prison to SCC-III yard. Because of my custody status (Class-B, 15 CCR § 3377.2 (a)(3)(D)), I am required to be housed in a 2-man cell. But for reasons I believe are directly related to my crime, the warden assigned me to dorm housing in the Gym (Building T-6). (threatened)

Upon arrival I was immediately by White Skin-Head inmates to show my "Paperwork". Because I don't have any paperwork, I was threatened to reveal my crime. I told them I was a "Chick Mclester". I immediately reported this incident to the on-duty (continued)

*15 additional attachments

PAGE - 2

Explanation of Circumstances

(Continued) Correctional Officer, who's name I can only assume is C/O Bick (see Exhibit A, "Escorted By") and requested protective custody. He asked why and after I explained the events, he grabbed me by the arm and said to me, "You just couldn't wait to start some 'SHIT', could you?"

C/O Bick then immediately escorted me to into the Gym Custody Office and instructed me to "stand there and don't move!" He then made a phone call.

Inside the office, sitting at a desk was a white Inmate doing paperwork. I can only assume he was the Clerk. C/O Bick did not instruct him to vacate the office, thus witnessed this incident.

Then, for reasons I believe were malicious intent, C/O Bick walked out of the office

GOVERNMENT CLAIM FORM
PAGE - 3

CHARLES GORTA

Explanation of Circumstances

(Continued) leaving the office door open and hence leaving me unprotected. It was during this period of time that Inmate Pina (T-44230), a white skin-Head, took this opportunity to rush inside the Custody office and attacked me. (See Exhibit - D).

I consider the actions of C/O Bick, reckless with malicious intent and deliberate indifference, under Color of State Law. It was his responsibility to ensure my personal safety. (15 CCR § 3271) I believe his actions were motivated by a desire to encourage "prison justice" because of my committed offence.

On 05/28/04, I filed a formal complaint against C/O Bick, whom I identified as the On-duty C/O. But it was "Screened-Out", rejected on grounds that I had requested personal monetary compensation for injuries

GOVERNMENT CLAIM FORM

CHARLES GORTON

PAGE - 4

Explanation of Circumstances

(Continued) sustained. (See Exhibit E & F)

I resubmitted my Complaint and was issued a CDC-602 Log # - SCC-X-04-00728. (Exhibit G & Ha, Hb). But to this date it has never been returned for me to continue the appeal Process to exhaust all remedies. Therefore I have fulfilled the Claim Form requirement guideline.

Due to the dereliction of responsibility to ensure my personal safety as outlined above, I hereby hold responsible the following CDC Personnel:

- ① The On-Duty C/O who is responsible for my personal injuries, whom I can only assume is C/O Bick.
- ② The On-Duty Sergeant at the time of said attack,
- ③ Lieutenant Espinosa, ④ Captain Fox, ⑤ Chief Deputy Warden and ⑥ the Acting Warden of ACC. III.

MEDICAL REPORT OF INJURY OR UNUSUAL OCCURRENCE

NAME OF INSTITUTION SCC	FACILITY/UNIT 3 yd.	REASON FOR REPORT (circle) INJURY UNUSUAL OCCURRENCE	ON THE JOB INJURY PRE AD/SEG ADMISSION	DATE 13 MAR
THIS SECTION FOR INMATE ONLY	NAME LAST Gorton	FIRST Charles	CDC NUMBER T43446	HOUSING LOC. 6T-
THIS SECTION FOR STAFF ONLY	NAME LAST	FIRST	BADGE #	RANK/CLASS
THIS SECTION FOR VISITOR ONLY	NAME LAST	FIRST	MIDDLE	DOB
	HOME ADDRESS	CITY	STATE	ZIP
				HOME PHONE

PLACE OF OCCURRENCE Gym 6T+	DATE/TIME OF OCCURRENCE 1815 - 6T/Gym	NAME OF WITNESS(ES)
TIME NOTIFIED 1820	TIME SEEN 1820	ESCORTED BY 60 Bick
	MODE OF ARRIVAL (circle) AMBULATORY	LITTER ON SITE
	WHEELCHAIR	AGE
	RACE	SEX

BRIEF STATEMENT IN SUBJECT'S WORDS OF THE CIRCUMSTANCES OF THE INJURY OR UNUSUAL OCCURRENCE

- I was physically attacked by another inmate
- No Pain nose (R) upper eye
#2, 9, 11, 16

INJURIES FOUND?	YES / NO
Abrasion/Scratch	<input checked="" type="checkbox"/> 1
Active Bleeding	<input checked="" type="checkbox"/> 2
Broken Bone	<input checked="" type="checkbox"/> 3
Bruise/Discolored Area	<input checked="" type="checkbox"/> 4
Burn	<input checked="" type="checkbox"/> 5
Dislocation	<input checked="" type="checkbox"/> 6
Dried Blood	<input checked="" type="checkbox"/> 7
Fresh Tattoo	<input checked="" type="checkbox"/> 8
Cut/Laceration/Slash	<input checked="" type="checkbox"/> 9
O.C. Spray Area	<input checked="" type="checkbox"/> 10
Pain	<input checked="" type="checkbox"/> 11
Protrusion	<input checked="" type="checkbox"/> 12
Puncture	<input checked="" type="checkbox"/> 13
Reddened Area	<input checked="" type="checkbox"/> 14
Skin Flap	<input checked="" type="checkbox"/> 15
Swollen Area	<input checked="" type="checkbox"/> 16
Other	<input checked="" type="checkbox"/> 17
psych R	<input checked="" type="checkbox"/> 18
CCC MS	<input checked="" type="checkbox"/> 19

O.C. SPRAY EXPOSURE?	YES / NO
DECONTAMINATED?	YES / NO
Self-decontamination instructions given?	YES / NO
Refused decontamination?	YES / NO
Q 15 min. checks	
Staff issued exposure packet?	YES / NO

RN NOTIFIED/TIME Ingaile RN	PHYSICIAN NOTIFIED/TIME 1840 W. f. wae
TIME/DISPOSITION	

REPORT COMPLETED BY/TITLE (PRINT AND SIGN) Ingaile RN	BADGE # 0	RDOs S.S.
-----------------------------------------------------------------	---------------------	---------------------

(Medical data is to be included in progress note or emergency care record filed in (JHR))

DATE	TIME	
5-13-04		<p>⑤ Presents via man down</p> <p>Has laceration (R) supra orbital ridge -</p> <p>⑥ SPO₂ 99° P-84 resp 12-</p> <p>T-99.4 112/78-</p> <p>Has 3-4 cm laceration (R) supra orbital ridge -</p> <p>Is alert oriented co-operative -</p> <p>states he needs to be honest to people + is telling about his committing offense -</p> <p>states CCCMS status 5 R @ present</p> <p>PERLA.</p> <p>a) laceration of skin -</p> <p>CCCMS 1 hr -</p> <p>b) MO for skin closure -</p>

Engaller

5/17/04 4/6 y.o.

all safe

condition

⑤ Hit in face to fist, cut above

⑥ eye. No loss of consciousness

⑦ 1" cut above (R) eye. a least

PERLA. Neuro grossly intact

⑧ Laceration (R) lower forehead

⑨ Cleared, closed - 5-40 sutures

⑩ Keeps clean dry

INSTITUTION

HOUSING UNIT

6A

6B

SCS

CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH

Gorton, Charles

T 43446

INTERDISCIPLINARY PROGRESS NOTES

Litwin

DEPARTMENT OF CORRECTIONS

Order Date	Time	Problem #	Physician's Order and Medication (Orders must be dated, timed, and signed.)
5/13/04			<p>① Nuture removal 6 days</p> <p>② Tylenol # 480, repeat Q6° PRN</p> <p><i>Wittwer</i></p> <p>noted 5-13-04 20-20</p> <p><i>Ingalls</i></p>

codeine

Sec

$$6T \rightarrow 2T$$

Gorton, C
T43446

- 4-30-58

Confidential
client information
See W & I Code, Sections 4514 and
5328

PHYSICIAN'S ORDERS

DISTRIBUTION:
WHITE - CENTRAL FILE
BLUE - INMATE (2ND COPY)
GREEN - ASU
CANARY - WARDEN
PINK - HEALTH CARE MGR
GOLDENROD - INMATE (1ST COPY)

INMATE'S NAME: GORTON 2T-208 CDC NUMBER: T-43446

REASON(S) FOR PLACEMENT (PART A)

- ☒ PRESENTS AN IMMEDIATE THREAT TO THE SAFETY OF SELF OR OTHERS
☐ JEOPARDIZES INTEGRITY OF AN INVESTIGATION OF ALLEGED SERIOUS MISCONDUCT OR CRIMINAL ACTIVITY
☒ ENDANGERS INSTITUTION SECURITY ☐ UPON RELEASE FROM SEGREGATION, NO BED AVAILABLE IN GENERAL POPULATION

DESCRIPTION OF CIRCUMSTANCES WHICH SUPPORT THE REASON(S) FOR PLACEMENT:

On Thursday, May 13, 2004, at about 1815 hours, you inmate GORTON, T-43446, RRZZ, were battered by inmate PINA, T-44230, ST-16U, inside Building #8 custody office. For this reason, you are deemed a threat to the safety and security of this institution. You are being placed into Administrative Segregation, Held Pending Classification Review (HPCR). If it is determined that an enemy situation or a security concern exists, Institution Classification Committee (ICC) may retain you pending transfer to appropriate housing consistent with your case factors and security requirements. Your case will be reviewed by appropriate staff as soon as practical.

☐ CONTINUED ON ATTACHED PAGE (CHECK IF ADDITIONAL) ☐ IF CONFIDENTIAL INFORMATION USED, DATE OF DISCLOSURE: / /

DATE OF ASU PLACEMENT: 5/13/04 SEGREGATION AUTHORITY'S PRINTED NAME: D. Espinosa SIGNATURE: [Signature] TITLE: Lieutenant
DATE NOTICE SERVED: 2-13-04 TIME SERVED: 2140 PRINTED NAME OF STAFF SERVING ASU PLACEMENT NOTICE: E. BURNS SIGNATURE: [Signature] STAFF'S TITLE: C/O

☐ INMATE REFUSED TO SIGN INMATE SIGNATURE: [Signature] CDC NUMBER: T-43446

ADMINISTRATIVE REVIEW (PART B)

The following to be completed during the initial administrative review by Captain or higher by the first working day following placement

STAFF ASSISTANT (SA)

INVESTIGATIVE EMPLOYEE (IE)

STAFF ASSISTANT'S NAME: Hope TITLE: [Signature] INVESTIGATIVE EMPLOYEE'S NAME: TITLE:

IS THIS INMATE:

LITERATE? ☒ YES ☐ NO EVIDENCE COLLECTION BY IE UNNECESSARY ☒ YES ☐ NO
FLUENT IN ENGLISH? ☒ YES ☐ NO DECLINED ANY INVESTIGATIVE EMPLOYEE ☒ YES ☐ NO
ABLE TO COMPREHEND ISSUES? ☒ YES ☐ NO ASU PLACEMENT IS FOR DISCIPLINARY REASONS ☒ YES ☐ NO
FREE OF MENTAL HEALTH SERVICES DELIVERY SYSTEM NEEDS? ☒ YES ☐ NO DECLINED 1ST INVESTIGATIVE EMPLOYEE ASSIGNED ☒ YES ☐ NO
DECLINING FIRST STAFF ASSISTANT ASSIGNED? ☐ YES ☐ NO

☐ NOT ASSIGNED

Any "NO" requires SA assignment

☒ NOT ASSIGNED

Any "NO" may require IE assignment

INMATE WAIVERS

☐ INMATE WAIVES OR DECLINES INTERVIEW WITH ADMINISTRATIVE REVIEWER ☒ INMATE WAIVES RIGHT TO 72 HOURS PREPARATION TIME
☒ NO WITNESSES REQUESTED BY INMATE INMATE SIGNATURE: [Signature] DATE:

WITNESSES REQUESTED FOR HEARING

WITNESS NAME: TITLE/CDC NUMBER: WITNESS NAME: TITLE/CDC NUMBER:
WITNESS NAME: TITLE/CDC NUMBER: WITNESS NAME: TITLE/CDC NUMBER:

DECISION: ☐ RELEASE TO UNIT/FACILITY ☒ RETAIN PENDING ICC REVIEW ☒ DOUBLE CELL ☐ SINGLE CELL PENDING ICC

REASON FOR DECISION:

Retain Asl Seg Threat of released

ADMINISTRATIVE REVIEWER'S PRINTED NAME: [Signature] TITLE: FC DATE OF REVIEW: 5/14/04 ADMINISTRATIVE REVIEWER'S SIGNATURE: [Signature]
CORRECTIONAL ADMINISTRATOR'S PRINTED NAME: (if necessary) CORRECTIONAL ADMINISTRATOR'S CO-SIGNATURE: (if necessary) DATE OF REVIEW:

State of California

CDC FORM 695

Screening For:

CDC 602 Inmate/Parolee Appeals

CDC 1824 Reasonable Modification or Accommodation Request

RE: ScreenOut

June 2, 2004

GORTON, T43446

2T1 00000000140L

Log Number: SCC-X-

(Note: Log numbers are not assigned to screen out appeals, or informal level appeals)

The enclosed documents are being returned to you for the following reasons:

A request for compensation is outside the scope of the appeals process. You need to delete that part of Section B. Also, if you have a complaint regarding CMF you need to send them a separate appeal.

J. Tennison

Appeals Coordinator

Sierra Conservation Center

NOTE: Failure to follow instruction(s) will be viewed as non-cooperation and your appeal will be automatically dismissed pursuant to CCR 3084.4(d). This screening decision may not be appealed. If you believe this screen out is in error, please return this form to the Appeals Coordinator with an explanation of why you believe it to be in error, and supporting documents. You have only 15 days to comply with the above directives.

PERMANENT APPEAL ATTACHMENT – DO NOT REMOVE

(EXHIBIT - F)

ONE of two copies

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

INMATE/PAROLEE
APPEAL FORM
CDC 802 (12/87)

Location: Institution/Parole Region

Log No.

Category

JUN 02 2004

You may appeal any policy, action or decision which has a significant adverse effect upon you. With the exception of Serious CDC 116s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
GORTON, C	T43446	AD-SEG	2T-121U

A. Describe Problem: On Thursday, May 13 2004, at about 1800 hrs I was taken into Protective Custody by the on duty Correctional Officer and was placed into the Building #6 Custody Office. The Correctional Officer remained with me while he made a phone call. But then he personally left the office leaving me alone with another G.P. Inmate who was sitting at the office desk. Additionally the C/O did not fully close the door nor did he lock it. It was during this

If you need more space, attach one additional sheet

period of time, leaving me completely injured & psychological injury damages. Also to be sent to a Protective Custody Unit as was recommended by I.C.C. - CME and I.C.C. - SCC-III.

Inmate/Parolee Signature: Chris R. Gorton Date Submitted: 5/28/04

C. INFORMAL LEVEL (Date Received: _____)

Staff Response: _____

Staff Signature: _____ Date Returned to Inmate: _____

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature: _____ Date Submitted: _____

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number: _____



(EXHIBIT 8)

INMATE APPEAL ASSIGNMENT NOTICE

To: INMATE GORTON, T43446
Current Housing: 2T1 00000000121L

Date: 07/09/2004

From: INMATE APPEALS OFFICE

Re: APPEAL LOG NUMBER: SCC-X-04-00728

ASSIGNED STAFF REVIEWER: TUOL DIV

DUE DATE: 08/19/2004

APPEAL ISSUE: CUSTODY/CLASS.

Inmate GORTON, this acts as a notice to you that your appeal has been sent to the above staff for FIRST level response. If you have any questions, contact the above staff member. If dissatisfied, you have 15 days from the receipt of the response to forward your appeal for SECOND level review.

J. TENNISON, CC II
APPEALS COORDINATOR
Sierra Conservation Center

Personal Injury

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTION:

INMATE/PAROLEE APPEAL FORM

CDC 002 (12/87)

Location: Institution/Parole Region

Log No.

Category

1.

1.

2.

2.

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
GORTON, C	T43446	AD-SEG	2T-1214

A. Describe Problem: ON Thursday, May 13 2004, at about 1800 hrs, I was placed under protective custody by the on-duty correctional officer (C/O), inside the Building #6 Custody office. The C/O remained with me while he made a phone call. But then the C/O left the office leaving me alone inside the office with another C/P Inmate who was sitting at the desk, also C/O left the office door unlocked & open. During this period of time, the C/O left me completely.

B. Action Requested: Pursuant of "Person Out" Notification form 2.04 concerning requests for compensation, I reserve the right to file a claim with the California State Board of Control. I also request transfer to CMC, due to sensitive needs & family hardship for visiting (Cont)

Inmate/Parolee Signature: Chas R GortonDate Submitted: 5/28/04

C. INFORMAL LEVEL (Date Received: _____)

Staff Response: _____

Staff Signature: _____

Date Returned to Inmate: _____

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature: _____

Date Submitted: _____

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number: _____



GORTON, C. T43446 2T-121U.

Continued From Section A:

unprotected, giving Inmate PINA (T-44230) the opportunity to rush into the office and attack me.

I consider the action by this correctional Officer to be reckless with Deliberate Indifference and Malice ^{intentional} towards the insurance of my personal safety (15CCRS 3271).

I believe his actions of Gross Negligence were ~~more~~ motivated by the ~~his~~ knowledge and nature of my committed offense. This was also demonstrated by his comment to me saying, "you couldn't wait to cause some shit could you!"

Therefore I hold the C/O responsible for this attack resulting in my physical & mental injuries, because he failed to provide proper safety measures to ensure my personal safety.

Respectfully,

Charles R. Gorton

Continued From Section B:

I hereby request a copy of the accident report as well as the legal name and employee number of the on-duty C/O who took me into Protective

EXHIBIT - I

State of California

Department of Corrections
CDC 128-G

No. T-43446

NAME: GORTON, C

Comment: SCC-III endorsed. CS = 43.

Requested institutions are not currently available. Placement is based on the availability of institutional programs and housing per PC 5068. Inmate requires CCCMS level of MHSDS care. CDC 128-C of 10-21-03 is noted. Inmate is NCF per CDC 128-C2 of 2-7-02. TB Code is 22. CDC 812 is noted. Confidential file is noted.

Retention in ASU is approved pending transfer. This transfer approval expires 8/18/2004 and will require return to CSR for re-authorization.


D. Ofstedahl, CSR

Date: 4/20/2004

Classification - CSR ACTION

CMF

INSTITUTION:
WHITE - CENTRAL FILE
BLUE - INMATE (1ST COPY)
GREEN - ASU

CANARY - WARDEN
PINK - HEALTH CARE MGR
GOLDENROD - INMATE (1ST COPY)

INMATE'S NAME

GORTON, C.

CDC NUMBER

T-43446

- ☒ PRESENTS AN IMMEDIATE THREAT TO THE SAFETY OF SELF OR OTHERS
☐ JEOPARDIZES INTEGRITY OF AN INVESTIGATION OF ALLEGED SERIOUS MISCONDUCT OR CRIMINAL ACTIVITY
☒ ENDANGERS INSTITUTION SECURITY ☐ UPON RELEASE FROM SEGREGATION, NO BED AVAILABLE IN GENERAL POPULATION

DESCRIPTION OF CIRCUMSTANCES WHICH SUPPORT THE REASON(S) FOR PLACEMENT:

On Thursday, March 25, 2004, you are being moved from H-213U to S-308 and placed on Administration Segregation (Ad-Seg) status. Specifically, you were a victim of a battery in the CMF Main Dining Facility. During an interview of you by Correctional Sergeant G. De Mars, you stated that you were battered because you were disrespecting the "whites" in the facility. You further stated that after the incident in the Dining Facility "white" inmates approached you on a number of occasions. On one of these occasions you indicated another unidentified "white" inmate attempted to strike you in the face but hit you in the neck. GORTON is a participant in the MHSDS at the CCCMS Level of Care. GORTON is not a Clark or DPP PARTICIPANT. GORTON'S reading level is above 4.0. The 128-C'S dated 03-25-04, reflect medical and psychiatric clearance for placement in Ad-Seg.

☐ CONTINUED ON ATTACHED PAGE (CHECK IF ADDITIONAL) ☐ IF CONFIDENTIAL INFORMATION USED, DATE OF DISCLOSURE: / /

DATE OF ASU PLACEMENT 3/25/04	SEGREGATION AUTHORITY'S PRINTED NAME J. FASSEN	SIGNATURE <i>[Signature]</i>	DATE 6-1
DATE NOTICE SERVED 3-25-04	TIME SERVED 1151	PRINTED NAME OF STAFF SERVING ASU PLACEMENT NOTICE J. R. DEMARS	SIGNATURE <i>[Signature]</i>
INMATE REFUSED TO SIGN		INMATE SIGNATURE <i>[Signature]</i>	CDC NUMBER T43446

ADMINISTRATIVE REVIEW (PART B)

The following to be completed during the initial administrative review by Captain or higher by the first working day following placement

STAFF ASSISTANT (SA)		INVESTIGATIVE EMPLOYEE (IE)	
STAFF ASSISTANT NAME ASSIGNED CASEWORKER	TITLE CC II	INVESTIGATIVE EMPLOYEE'S NAME	TITLE
IS THIS INMATE:		EVIDENCE COLLECTION BY IE UNNECESSARY	
LITERATE?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
FLUENT IN ENGLISH?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
ABLE TO COMPREHEND ISSUES?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
FREE OF MENTAL HEALTH SERVICES DELIVERY SYSTEM NEEDS?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
DECLINING FIRST STAFF ASSISTANT ASSIGNED?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
Any "NO" requires SA assignment		Any "NO" may require IE assignment	
<input type="checkbox"/> NOT ASSIGNED		<input type="checkbox"/> NOT ASSIGNED	

INMATE WAIVERS

- ☐ INMATE WAIVES OR DECLINES INTERVIEW WITH ADMINISTRATIVE REVIEWER ☒ INMATE WAIVES RIGHT TO 72 HOURS PREPARATION TIME
☒ NO WITNESSES REQUESTED BY INMATE

WITNESSES REQUESTED FOR HEARING

WITNESS NAME	TITLE/CDC NUMBER	WITNESS NAME	TITLE/CDC NUMBER
WITNESS NAME	TITLE/CDC NUMBER	WITNESS NAME	TITLE/CDC NUMBER

DECISION: ☐ RELEASE TO UNIT/FACILITY ☒ RETAIN PENDING ICC REVIEW ☐ DOUBLE CELL ☒ SINGLE CELL PENDING ICC

REASON FOR DECISION:

Retain pending Unit II investigation, ASU warranted for safety of In & Institution

ADMINISTRATIVE REVIEWER'S PRINTED NAME LOZARRAGA, J.	TITLE FAC. CAPT.	DATE OF REVIEW 3/26/04	TIME 1630	ADMINISTRATIVE REVIEWER'S SIGNATURE <i>[Signature]</i>
CORRECTIONAL ADMINISTRATOR'S PRINTED NAME (if necessary)		CORRECTIONAL ADMINISTRATOR'S CO-SIGNATURE (if necessary)		DATE OF REVIEW

STATE OF CALIFORNIA
California Medical FacilityDEPARTMENT OF CORRECTIONS
CDC 128-G (REV 10/85)

CDC #: T-43448 NAME: GORTON HOUSING: S-308
CUSTODY: MED AR to MAX R PS: 43/III ASSIGNMENT: AD/SEG
COMMENTS: EPRD 9/09/15 CAT: CCCMS WG/PG: A1/A to D1/D EFF 3/25/04

COMMITTEE ACTION: INITIAL AD/SEG REV./ANNUAL, REFER TO CSR RX RETAIN AD/SEG STATUS PEND NON-ADVERSE TX, ENEMY CONCERNS W/WHITE I/M POPULATION, ISOLATED TO CMF AND ICC REVIEW. ESTABLISH CUSTODY TO MAX R, WG/PG D1/D, EFF. 3/25/04 AND ASSIGN SMALL MANAGEMENT YARD. RX UPON TX MED AR, "S" TIME FOR PERIOD 3/25/04 TO REASSIGNMENT, A1/A EFF. 5/23/02, ADVISED BEHAVIORAL AND PROGRAM EXPECTATIONS WHILE HOUSED IN AD/SEG.

Subject made a personal appearance before Unit III ICC for Initial AD/SEG Review/Annual, acknowledged having received 72 hours notice and is prepared to proceed. Committee notes subject is a participant in the Mental Health Service Delivery System at the CCCMS level of care, therefore Correctional Officer T. Forsythe, was assigned as staff assistant and is present. Committee notes per CDC 128-C's dated 3/25/04, subject was medically and psychiatrically cleared for AD/SEG placement. Committee notes CDC 114D dated 3/25/04, was reviewed and due process rights were observed. Committee also notes CDC 114D order was reviewed, by Captain J. Lizarra within 24 hours per CCR 3337. Committee notes subject confirms that he did receive copies of all pertinent documents.

On March 25, 2004, subject was placed into AD/SEG, per CDC 114D dated 3/25/04. Specifically you were the victim of a battery in the CMF Main Dining Facility. During an interview by Correctional Sergeant Demars, you stated that you were battered because you were disrespecting the "Whites," in the facility. You further stated that after the incident in the dining facility, "White," inmates approached you on a number of occasions. On one of these occasions you indicated another unidentified "White," inmate attempted to strike you in the face, but hit you in the neck. Based on this information you have been deemed a threat to the safety and security of the institution, therefore you will remain on AD/SEG status pending administrative review.

Subject stated that he is unable to identify the white inmates, of which he discussed with Sgt. Demars. Subject added that he has now learned the prison code of separation between the races, however the lesson has come a bit late, because the whites have it in their heads that I disrespected them by talking to black inmates. Subject requested a transfer to CMC-E with alternate of MCSP. Based on the above noted information, committee notes inmate Verducci, V-07295, has been identified as having struck him in the dining hall and is documented as an enemy. Committee also acts to recommend a non-adverse transfer to an institution in which subject can re-integrate back into the population. Committee acknowledged CDC 128B, authored by Sergeant G. Demars and act to refer the case to CSR recommending a non-adverse transfer. Committee acts to recommend CMC-E/III CCCMS with alternate MCSP/III CCCMS. Committee also recommends upon transfer subject is eligible for MED AR, A1/A eff. 5/23/02. Committee notes subject's AD/SEG placement is non-adverse in nature and act to establish "S" Time for period 3/25/04 to re-assignment.

Committee Action: BASED ON THE ABOVE NOTED INFORMATION ICC ACTS TO RETAIN SUBJECT AD/SEG STATUS, REFER THE CASE TO CSR RECOMMENDING AD/SEG 90 DAY AD/SEG EXTENSION PEND NON-ADVERSE TX, ENEMY CONCERNS W/WHITE I/M POPULATION, ISOLATED TO CMF AND ICC REVIEW. ESTABLISH CUSTODY TO MAX R, WG/PG D1/D, EFF. 3/25/04 AND ASSIGN SMALL MANAGEMENT YARD. RX UPON TX MED AR, "S" TIME FOR PERIOD 3/25/04 TO RE-ASSIGNMENT, A1/A EFF. 5/23/02, ADVISED BEHAVIORAL PROGRAM EXPECTATIONS WHILE HOUSED IN AD/SEG.

Case Factors: Per CDC 128G dated 5/23/02. CDC 812: Noted for an enemy, reviewed and updated. Confidential File: Noted, reviewed and updated. TB Code: 22, per CDC 128C dated 5/02/03.

DOUBLE/SINGLE CELL REVIEW: Committee notes that subject meets double cell status based upon review of the Central File, which reflects no in cell violence or predatory behavior, however subject will be single celled while housed in CMF AD/SEG.

YARD REVIEW: Committee acts to assign subject to small management yard. Subject was advised of behavioral and program expectations while housed in CMF AD/SEG.

INMATES PARTICIPATION: Subject participated during today's committee, understood, and agreed with the committee action. Subject has been advised of his rights to appeal. Subject's next scheduled committee is 6/04.

J. BAUTISTA
CORRECTIONAL COUNSELOR II

S. O'LAN
CHIEF DEPUTY WARDEN (A)

COMMITTEE RECORDER: J. BAUTISTA, CCII **CHAIRPERSON:** S. O'LAN, CDW (A)
COMMITTEE MEMBERS: J. MENDOZA, FC G. DEMARS, SGT. K. CARROLL, SGT.
CLINICIAN: R. GARDNER, LCSW **ACADEMIC:** R. RODDOCKER, **TEACHER S/A:** T. FORSYTHE, C/O

DATE: 4/01/04 UNIT: III CLASSIFICATION: Initial Ad Seg/Annual Rev. -ICC CMF:JB/jb